



40 Broad Street, 7th Floor
New York, New York 10004
Telephone: (212) 943-9080

Adrianna R. Grancio
Partner
agrancio@vandallp.com

January 10, 2025

VIA ECF FILING

Hon. Peggy Kuo
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Trustees of the Plumbers Local Union No. 1 Welfare Fund et al.,
v. Spray in Place Solutions, LLC., et al*, 24-CV-2568 (KAM) (PK)

Dear Judge Kuo:

This firm represents Plaintiffs in the above-referenced matter. Plaintiffs write jointly with Defendant Spray in Place Solutions, LLC (“SIPS” or “Defendant”) pursuant to Local Civil Rule 37.2 and VI(A)(1) of your Honor’s Individual Practice Rules to request a conference to resolve the parties’ discovery dispute.

a. Background

Plaintiffs commenced this action on April 5, 2024, pursuant to Section 502(a)(3) and 515 of the Employee Retirement Income Security Act, as amended, (“ERISA”), 29 U.S.C. §§ 1132(a)(3), and 1145, Section 301 of the Labor Management Relations Act (“LMRA”), and common-law bond principles to recover delinquent employer contributions, interest, and other supplemental amounts owed to Plaintiffs by Defendant SIPS as contained in an audit of covering September 1, 2020 through June 30, 2022 (the “Audit”). *See* ECF Doc. No. 1. Plaintiffs also seek Defendant’s compliance with an Expanded Audit covering through December 31 2023. *Id.*

A civil case management plan and scheduling order went into effect on August 9, 2024 (the “Case Management Plan”). *See* ECF Doc. No. 17. In compliance with the Case Management Plan, on September 27, 2024, Plaintiffs served requests for the production of documents and first set of interrogatories (“Plaintiffs’ Discovery Demands”) on Defendant SIPS. SIPS was required to respond to Plaintiffs’ Discovery Demands by October 27, 2024.

As discussed at the August 9, 2024, conference, part of Plaintiffs’ claims in this action includes a request for an expanded audit of Defendant SIPS through December 31, 2023. The



parties initially disagreed on whether Plaintiffs were entitled to the period sought in this expanded audit.

On September 5, 2024, Plaintiffs received from Defendant SIPS a proposed stipulation to govern the production of documents relating to the expanded audit period. After confirming the appropriate audit end date (December 31, 2022), on October 2, 2024, Plaintiffs returned a stipulation to Defendant with proposed revisions and followed up with SIPS on October 24, 2024.

On November 20, 2024, Plaintiffs and Defendant SIPS participated in a telephonic meet and confer. During the discussion, counsel for Defendant SIPS reiterated his refusal to respond to Plaintiffs' discovery demands, citing the pending stipulation. Defendant SIPS maintained that Plaintiffs' discovery demands were overly burdensome and asserted that, once the stipulation was signed and finalized that audit documents (a much more limited scope) could be produced and the expanded audit could be completed. Plaintiffs did not object to this approach and agreed that the dispute could be resolved if the parties entered into a stipulation for the production of audit documents. However, Plaintiffs continued to disagree with the inclusion of certain language in the stipulation concerning non-party Local Union No. 1 of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada (the "Union") other items Plaintiffs deemed irrelevant to the action. Plaintiffs informed Defendant SIPS that they would agree to the stipulation only if references to the non-party Union and an unrelated arbitration were excluded. At the conclusion of the meet and confer, the parties agreed to submit a joint status report to the Court requesting a 30-day stay to allow Defendant to negotiate a separate stipulation with the non-party Union. On November 27, 2024, Plaintiffs provided their consent for Defendant SIPS to submit the joint letter to the Court. However, Defendant SIPS never filed the letter.

On December 20, 2024, Plaintiffs contacted Defendant SIPS to address the failure to file the joint letter with the Court, as agreed during the meet and confer. Plaintiffs also demanded that Defendant provide responses to their discovery demands no later than December 31, 2024. To date, Defendant has neither filed the joint letter nor responded to Plaintiffs' discovery demands.

b. Plaintiffs Claims and the Outstanding Discovery

Defendant SIPS's discovery deficiencies must be rectified before any substantive motion practice can be conducted, or even before settlement can be explored. Plaintiffs are seeking findings of an audit through December 31, 2022, for which they only have findings through June 30, 2022. The documents requested in Plaintiffs' Discovery Demands seek the necessary documents to complete the audit through December 31, 2022 and to ascertain the full scope of Plaintiffs' damages.

Plaintiffs have requested, *inter alia*, standard business and financial records such bank statements, general ledgers, employee time records, job location records, contracts and subcontracts, federal, state, and local income and payroll tax forms, certified payroll records, sign-in sheets, and canceled checks. Each of these requests is directly relevant to determining the hours worked by SIPS employees, whether the work fell within the Union's jurisdiction, and the amount of contributions reported and paid for such work.



Accordingly, Plaintiffs respectfully request a conference with the Court to resolve this discovery dispute. Additionally, as detailed above, due to Defendant's complete failure to produce any discovery in this case, Plaintiffs respectfully request that the Court extend the discovery deadline to April 30, 2025. This extension would provide Plaintiffs the necessary time to obtain the documents required to complete the audit and allow the auditors to finalize and issue the expanded audit. If granted, the Court would need to modify the following dates contained in the Case Management Plan

	Current Deadline	Proposed Deadline
Completion of Fact Discovery	February 28, 2025	April 30, 2025
Joint Status Report Certifying Close of Fact Discovery	March 11, 2025	May 12, 2025
Commence Dispositive Motion Practice	April 1, 2025	June 13, 2025
Proposed Joint Pre-Trial Order (if no dispositive motion)	April 18, 2025	June 20, 2025

Defendant SIPS consent to Plaintiffs' request for an extension of time and will substantively respond to Plaintiffs' letter in accordance with this Court's Individual Rules.

Respectfully submitted,

By: /s/ Adrianna R. Grancio
Adrianna R. Grancio, Esq.

By: /s/ Emanuel Kataev
Emanuel Kataev, Esq.